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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

DANIEL E. NAGY and Maria Romero,  
individually and on behalf of the MedAmerica,  
Inc. 401(k) Plan,

Plaintiffs,

v.

CEP AMERICA, LLC (d/b/a Vituity),  
MedAmerica Retirement & Benefits Committee,  
and Jane and John Does 1–25,

Defendants.

**Case No. 3:23-cv-5648-RS**

**PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF  
SETTLEMENT AND  
CERTIFICATION OF SETTLEMENT  
CLASS**

Judge: Hon. Richard Seeborg

1 Plaintiffs Daniel E. Nagy and Maria Romero (collectively, “Plaintiffs”) respectfully file  
 2 this Motion under Rule 23 of the Federal Rules of Civil Procedure to (1) certify the Settlement  
 3 Class for settlement purposes and appoint Plaintiffs as Class Representatives and Plaintiffs’  
 4 Counsel as Class Counsel (2) preliminary approve the Settlement under FED. R. CIV. P. 23(e); (3)  
 5 approve the manner of notifying the Class of the Settlement; (4) appoint Rust Consulting as the  
 6 Settlement Administrator; (5) appoint Huntington Bank as Escrow Agent; and (6) set a date for a  
 7 Fairness Hearing.

8 1. This action was originally filed in this Court on November 1, 2023. The Complaint  
 9 alleges that (1) Defendants improperly caused the Plan to pay excessive or prohibited  
 10 administrative expenses to MedAmerica and the Plan’s recordkeeper, Charles Schwab; and (2)  
 11 the Plan’s capital preservation option, the Schwab Bank Savings Account, was imprudent. Based  
 12 on these allegations, Plaintiffs claim that Defendants engaged in breaches of fiduciary duties to  
 13 the Plan and that certain transactions were prohibited under the Employee Retirement Income  
 14 Security Act of 1974 (“ERISA”).

15 2. On March 14, 2025, after participating in a mediation session with a neutral  
 16 mediator with JAMS, the Parties entered into a Settlement Agreement.

17 3. Plaintiffs request that the Court certify the Settlement Class for settlement  
 18 purposes only and preliminarily approve the Settlement Agreement that is attached hereto as  
 19 Exhibit 1.

20 4. Plaintiffs also submit to the Court a Memorandum in Support of this Motion, as  
 21 well as a Declaration of Class Counsel. Defendants do not oppose this Motion.

22 WHEREFORE, Plaintiffs request the following:

- 23 • That the Court certifies the Settlement Class for settlement purposes, appoints  
 24 Plaintiffs as Class Representatives, and appoints Plaintiffs’ Counsel as Class  
 25 Counsel;
- 26 • That the Court enters an Order granting its preliminary approval of the Settlement  
 27 Agreement in the form attached to the Settlement Agreement;

- That the Court approves the manner of notifying the Settlement Class of the Settlement;
- That the Court appoints Rust Consulting as the Settlement Administrator;
- That the Court appoints Huntington Bank as Escrow Agent;
- That the Court order any interested party to file any objections to the Settlement within the time limit set by the Court, with supporting documentation, and order such objections, if any, be filed with the Clerk of Court at least 30 calendar days prior to the scheduled Final Approval Hearing;
- That the Court schedule a Fairness Hearing for the purpose of receiving evidence, argument, and any objections relating to the Parties' Settlement Agreement; and
- That following the Fairness Hearing, the Court enter an Order granting final approval of the Parties' Settlement and dismissing the Complaint in this Litigation with prejudice.

Dated: March 14, 2025

MARK G. BOYKO  
GREGORY Y. PORTER  
BAILEY & GLASSER

By: 

Mark G. Boyko

Attorneys for Plaintiffs